

A RESOLUTION AUTHORIZING THE
EXECUTION OF A MASTER
EQUIPMENT LEASE AGREEMENT WITH
THE INDIANA BOND BANK.

WHEREAS, in accordance with the provisions of I.C. 36-1-9 and all applicable provisions of the Code of the City of Fort Wayne, bids for the purchase contract for an asphalt roller and five (5) new street sweepers for the Street Department were received from and awarded to Deeds Equipment (asphalt roller) and Brown Equipment Company, Inc. (street sweepers);

WHEREAS, the assignment of such bids to the Indiana Bond Bank in accordance with the provisions I.C. 5-1.5 is in the best interest of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF FORT WAYNE, INDIANA:

SECTION 1. The City of Fort Wayne, by and through its Mayor and Board of Public Works and Safety, is hereby authorized to assign the foregoing bids to the Indiana Bond Bank and to enter into the proposed lease for the equipment specified in such bids with the Indiana Bond Bank.

SECTION 2. Said proposed lease, which provides for a fair and reasonable rental for the use and enjoyment of such equipment by the City, is necessary and wise.

SECTION 3. The execution by the City and delivery to the Bond Bank of such lease in the form attached hereto as Exhibit "A" including any and all lease supplements thereto with respect to the lease of the equipment authorized hereby, are hereby authorized and approved, together with such changes in said lease or lease supplements as may be authorized as necessary or appropriate by the Board of Public Works and Safety in order to carry

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out the transactions authorized hereby, with the execution of the lease or lease supplements to constitute conclusive evidence of such approval.

SECTION 4. The execution of the aforesaid lease, together with any lease supplements thereto, are hereby authorized.

SECTION 5. This Resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.


Councilmember

APPROVED AS TO FORM
AND LEGALITY


J. Timothy McCaulay, City Attorney

Read the first time in full and on motion by Henry, seconded by GiaQuinta, and duly adopted, read the second time by title and referred to the Committee on Public (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATED: 4-24-90

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the ^{11:30}third time in full and on motion by Henry, seconded by Edmonds, and duly adopted, placed on its passage. PASSED ~~lost~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>2</u>			<u>2</u>
BRADBURY	<u>✓</u>			
BURNS	<u>✓</u>			
EDMONDS	<u>✓</u>			
GiaQUINTA	<u>✓</u>			
HENRY	<u>✓</u>			
LONG	<u>✓</u>			
REDD	<u>✓</u>			
SCHMIDT				<u>✓</u>
TALARICO				<u>✓</u>

DATED: 5-22-90

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) _____ (APPROPRIATION) _____ (GENERAL) _____ (SPECIAL) _____ (ZONING MAP) _____ ORDINANCE RESOLUTION NO. B-31-90 on the 22nd day of May, 1990,

Sandra E. Kennedy ATTEST
SANDRA E. KENNEDY, CITY CLERK

SEAL
Charles S. Reed
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 23rd day of May, 1990, at the hour of 11:00 o'clock 7 A.M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 23rd day of May, 1990, at the hour of 11:00 o'clock 7 A.M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

MASTER EQUIPMENT LEASE AGREEMENT

Between

THE INDIANA BOND BANK, as Lessor

and

**Merchants National Bank & Trust Company of Indianapolis,
as Lessee**

Dated as of _____, 1990

MASTER LEASE AGREEMENT

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THIS MASTER EQUIPMENT LEASE AGREEMENT (the "Agreement") has been executed as of this ____ day of _____, 1990, by the Indiana Bond Bank, a public body corporate and politic of the State of Indiana created by and existing under the authority of and pursuant to the provisions of Title 5, Article 1.5, of the Indiana Code (the "Act"), as lessor (the "Bond Bank"), and _____, a duly existing political subdivision of the State of Indiana which is a Qualified Entity, as lessee (the "Lessee").

RECITALS

1. For definition of certain terms used in this Agreement and not otherwise defined herein, reference is hereby made to Article I.

2. The Lessee constitutes a Qualified Entity as defined in Article I of this Agreement and in the Act.

3. The Bond Bank desires to act as lessor in connection with the acquisition and the lease to the Lessee of certain Equipment, as hereinafter defined and as described in one or more Lease Supplements to be executed hereunder, and the Lessee desires to acquire by lease from the Bond Bank such Equipment under the terms and conditions of and for the purposes set forth in this Agreement and the applicable Lease Supplement.

4. It is contemplated that for each acquisition of Equipment by the Lessee, the Lessee, to the extent required by law, will publish notice to bidders for the acquisition of Equipment; that the Lessee will accept a bid for the acquisition of Equipment reserving the right to assign the purchase order or other applicable right or commitment to purchase the Equipment to the Bond Bank pursuant to the provisions of the Act; that, upon acceptance of the Equipment by the Lessee, the Lessee will assign the purchase order or other applicable right or commitment to purchase the Equipment for the Equipment to the Bond Bank, whereupon the Bond Bank will acquire and pay for the Equipment; and that concurrently with the purchase of the Equipment, the Bond Bank and the Lessee will enter into a Lease Supplement leasing the Equipment to the Lessee. Each lease of particular Equipment will be the subject of a separate Lease Supplement which will describe the Equipment to be leased, state the term of the lease of such particular Equipment and also state certain additional terms specifically applicable to the lease of such Equipment.

5. The Bond Bank will issue its Hoosier Equipment Lease Purchase Program Bonds, Series 1990 A (the "Bonds"), under the provisions of an Indenture of Trust (the "Indenture") between the Bond Bank and Merchants National Bank & Trust Company of Indianapolis, as Trustee, will use the proceeds of such bonds to acquire or reimburse the Bond Bank for the acquisition of the Equipment to be leased to the Lessee thereunder (the "Lease Program"), and by such Indenture will vest in the Trustee security interests in such Equipment leases, the Equipment leased thereunder and the Lease Payments, as hereinafter defined, and other payments made and to be made under such leases. Pending the issuance of the Bonds, the security interests of the Trustee may be assigned to the Bank, as hereinafter defined; and, with respect to each Lease Supplement, the portion of the Lease Payment, as hereinafter defined, attributable to interest will be subject to redetermination upon the issuance of the Bonds.

6. The Bond Bank and the Lessee desire to set out in this Agreement the terms and provisions under which the Lessee will lease Equipment from the Bond Bank.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and undertakings set forth herein, the Bond Bank agrees to acquire and to lease to the Lessee and the Lessee agrees to lease from the Bond Bank the Equipment described in Exhibit A to each Lease Supplement, all in accordance with the following terms and provisions:

ARTICLE I DEFINITIONS

Section 1.1. Definitions. As used in this Agreement, unless a different meaning clearly appears from the context:

"Act" means Indiana Code Title 5, Article 1.5, as amended.

"Aggregate Rental Payment" means the aggregate of all Lease Payments payable by Lessee under all Lease Supplements to this Agreement on each Rental Payment Date.

"Agreement" means this Master Equipment Lease Agreement, including the Exhibits attached hereto, as supplemented by Lease Supplements and as amended from time to time in accordance with the terms hereof.

"Appropriation" means the governmental act of the Lessee, pursuant to applicable statutes and ordinances, which approves expenditures for Lease Payments in a Fiscal Year and other amounts to be paid under this Agreement for such Fiscal Year.

"Authorized Official" means the duly elected or appointed controller, clerk-treasurer, superintendent, school business manager, treasurer, chief financial officer, purchasing officer or other appropriate officer of the Lessee.

"Bank" means Merchants National Bank & Trust Company of Indianapolis, or any successor thereto designated by the Bond Bank, as the provider of certain temporary financing for the payment by the Bond Bank of all or a portion of the purchase price of any Equipment subject to this Agreement.

"Bond Bank" means the Indiana Bond Bank, established and existing under the provisions of the Act as a body corporate and politic and an instrumentality, but not an agency, of the State, or any agency, board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers conferred upon the Bond Bank by the Act shall be given by law.

"Bonds" means the Indiana Bond Bank Hoosier Equipment Lease Purchase Program Bonds, Series 1990 A, issued under the Act and the Indenture.

"Budget" means the budget duly adopted by Lessee in accordance with applicable provisions of the laws of the State for any Fiscal Year of this Agreement.

"Business Day" means any day other than a Saturday, Sunday or legal holiday or a day on which banking institutions are authorized to close in the State.

"Commencement Date" means, with regard to each Lease Supplement, the date on which any Equipment is first delivered to and accepted by the Lessee and becomes subject to the terms of this Agreement and such Lease Supplement.

"Code" means the Internal Revenue Code of 1986, as amended and in effect on the date of issuance of the Bonds, and the applicable judicial decisions, published rulings and regulations promulgated or proposed thereunder or under the Internal Revenue Code of 1954.

"Constitution" means the constitution of the State.

"Default" means an Event of Default as set forth in Article VI which continues and has not been cured or waived pursuant to this Agreement.

"Equipment" means any and all of the tangible personal property which is eligible for inclusion in the Lease Program pursuant to the Indenture and the requirements of the Bond Bank, and which is acquired by the Bond Bank and leased to the Lessee under this Agreement and described in a Lease Supplement executed by the parties hereto, together with any and all additions to or replacements or modifications of such property.

"Equipment Location" means the location or locations in the State designated in Appendix A to the applicable Lease Supplement at which delivery of an item of Equipment will be accepted under Section 3.2 and at which the Equipment will be kept under Section 5.4.

"Fiscal Year" means the fiscal year of Lessee, which, unless otherwise provided herein, commences on the first day of January and terminates on the last day of December of each year.

"Fixed Period" means, with respect to each Lease Supplement, that portion of the Lease Term for which the Bond Bank, based upon the interest rate on the Bonds, has assigned a fixed and final interest rate by which to determine that portion of each Lease Payment obligation payable during such period that is attributable to interest.

"Force Majeure" means acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, orders of any kind of the government of the United States of America or the State or any civil or military authority, insurrections, riots, acts of terrorists, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, droughts, civil disturbances, explosions and other unanticipated causes or events not reasonably within the control of Lessee.

"Full Insurable Value" means, with respect to an item of Equipment and at any particular time during the Lease Term, the cost to repair, restore or replace such item in accordance with Section 5.8 but not less than the then-applicable Optional Purchase Price set forth in the Lease Supplement relating to such item of Equipment.

"Indenture" means the Indenture of Trust between the Bond Bank and the Trustee, pursuant to which the Bonds are being issued and are secured.

"Interim Period" means, with respect to each Lease Supplement, that portion of the Lease Term for which the Bond Bank has established an interim interest rate by which to determine that portion of each Lease Payment obligation accruing during such period that is attributable to interest.

"Lease Payment" means the rental payable by the Lessee under each Lease Supplement to this Agreement on each Rental Payment Date during the respective Lease Term.

"Lease Program" means the program established by the Bond Bank for the acquisition and leasing of Equipment by Qualified Entities.

"Lease Supplement" means a supplement to this Agreement substantially in the form set forth in Exhibit C hereto, under which particular items of Equipment are leased by the Bond Bank to the Lessee and made subject to this Agreement.

"Lease Term" means, with respect to each Lease Supplement, the period beginning on the Commencement Date established thereunder and ending on the earlier of the expiration date stated in such Lease Supplement or the date on which the Lessee has acquired title to the Equipment subject to such Lease Supplement but in no event shall any such expiration date under this Agreement be later than fifty-nine (59) months after the Commencement Date of such Lease Supplement.

"Non-Appropriation" means the failure by the Lessee on or before the last day of a Fiscal Year to make an Appropriation for the payment of Lease Payments for the following Fiscal Year and shall be deemed to occur on the last day of such Fiscal Year.

"Optional Purchase Price" means the amount determined in accordance with this Agreement which the Lessee is required to pay to the Bond Bank if the Lessee elects to exercise its option to purchase at that time the Equipment under Section 4.5 of this Agreement.

"Proceeds" means the amount of proceeds of any insurance claim or condemnation award or damages paid by a third party with respect to Equipment as provided in Section 5.8 of this Agreement.

"Qualified Entity" means an entity defined as a "qualified entity" by Chapter 1, Section 8 of the Act.

"Rental Payment Date" means the date established in Section 4.3 of this Agreement on which Lessee is obligated to make its quarterly Aggregate Rental Payment to Lessor.

"State" means the State of Indiana.

"Term" means the term of this Agreement as set forth in Section 4.1.

"Trustee" means Merchants National Bank & Trust Company of Indianapolis, a national banking association, and any successor trustee appointed by the Bond Bank pursuant to the Indenture.

"Vendor" means the manufacturer or manufacturers of each item of Equipment, as well as the agents or dealers of the manufacturers from whom the items of Equipment are purchased by the Bond Bank and leased under this Agreement.

Section 1.2. Construction. Except where the context otherwise requires, words importing the singular number shall include the plural number and words importing the plural number shall include the singular number and the words "hereof" and "herein" shall be construed to refer to the entirety of this Agreement and shall not be restricted to the particular Article, Section, subsection or paragraph in which they appear.

ARTICLE II REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE LESSEE

The Lessee represents, warrants and covenants as follows:

A. The Lessee is a Qualified Entity duly organized and validly existing under the constitution and the laws of the State with full power and authority to enter into this Agreement and the Lease Supplements hereunder, to consummate the transactions contemplated hereby and to perform all of its obligations hereunder.

B. During the term of this Agreement, the Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its legal existence and its status as a Qualified Entity.

C. The Lessee has been duly authorized to execute and deliver this Agreement under the terms and provisions of an ordinance or resolution adopted by its governing body (a copy of such authorization being attached hereto as Exhibit A) and further represents and warrants that all requirements have been met and procedures have occurred in order to ensure the enforceability of this Agreement. The Lessee has caused to be executed and delivered an opinion of its counsel to the foregoing effect, a copy of which is attached hereto as Exhibit B, and has delivered all other documents and instruments to the Bond Bank, required pursuant to the Act or the Indenture. The Lessee has complied and will comply with all public bidding and other statutory requirements, including, without limitation and to the extent applicable, the requirement of the Act that the Lessee has obtained or caused to be obtained a purchase price for the Equipment from the lowest responsible and responsive bidder in accordance with the requirements for the purchase of materials under Indiana Code 36-1-9-3 and all other applicable requirements pursuant to the provisions of Indiana Code 5-3-1, Indiana Code 36-1-9 and the Act with regard to the purchase and leasing of the Equipment.

D. The Equipment leased under this Agreement will be and remain essential for the proper, efficient and economic operation of the Lessee as a governmental unit throughout the applicable Lease Term and, during the Term of this Agreement, such Equipment will be used by the Lessee only for the purpose of performing one or more essential governmental or proprietary functions of the Lessee consistent with the permissible scope of the Lessee's authority.

E. Each item of Equipment is of a type approved for inclusion in the Lease Program and will have a useful life under the control of the Lessee that is substantially in excess of the applicable Lease Term.

F. The Equipment leased will be personal property and not fixtures.

G. As a condition to its bid for the purchase price of each item of Equipment subject to this Agreement and a Lease Supplement hereunder, the Lessee shall require the vendor thereof to deliver such Equipment to the Lessee fully assembled and in its entirety so that the Lessee may perform the inspection and acceptance testing and deliver the certificate to the Trustee contemplated by Section 3.2A(7).

H. The execution and delivery of this Agreement, and compliance with the provisions hereof, will not conflict with or constitute on the part of the Lessee a violation of, breach of, or default under any constitutional or charter provision, statute, ordinance, resolution, bond indenture or other financing agreement or any other agreement or instrument to which the Lessee is a party or by which the Lessee is bound, or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Lessee or any of its activities or properties; and all governmental, regulatory and other consents, approvals or authorizations required of or on behalf of the Lessee for the consummation of the transactions contemplated hereby have been obtained.

I. There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or threatened against or affecting the Lessee, wherein an unfavorable decision, ruling or finding would materially and adversely affect the transactions contemplated hereunder or which in any way would adversely affect the validity or enforceability of this Agreement.

J. The Lessee acknowledges that, under Article VI of this Agreement, (1) upon an Event of Default relating to any item of Equipment, the Bond Bank may elect that this Agreement shall terminate with respect to all items of Equipment then subject to this Agreement and (2) upon Non-Appropriation relating to any item of Equipment, this Agreement shall terminate with respect to such item of Equipment and, at the option of the Bond Bank, with respect to all other items of Equipment then subject to this Agreement.

ARTICLE III

ACQUISITION AND LEASING OF EQUIPMENT

Section 3.1. Acquisition of Equipment and Acceptance of Lease Bid. The Lessee has previously notified the Bond Bank of its intention to lease Equipment under the terms of this Agreement, has filed such applications and has complied with such procedures as have been specified by the Bond Bank in order to obtain approval from the Bond Bank for the lease of the Equipment specified in the notice. In its notification to the Bond Bank and the Trustee, the Lessee has specified the Vendor or Vendors of the Equipment, the acquisition cost under each bid to be accepted and the date or dates of anticipated delivery to the Lessee of the fully assembled and operational item or items of Equipment, attaching copies of all proposed acquisition documents and complying with such other requirements as may be specified by the Bond Bank. The Lessee hereby represents and warrants that it has complied with any and all legal provisions applicable to it for the solicitation and acceptance of one or more bids for the purchase of the specified Equipment for cash, payable upon (and solely upon) acceptance of the Equipment, with provision for assignment by the Lessee to the Bond Bank of the purchase order or other applicable right or commitment to purchase the Equipment as contemplated by this Agreement and all warranties and other rights against the Vendor.

The Lessee hereby acknowledges and agrees that it shall pay all transportation, shipping and other costs, if any, incurred in connection with the delivery and installation of the Equipment.

Section 3.2. Leasing of Equipment. At such time or times as the Lessee is ready to accept and acquire any item or items of Equipment to be leased under this Agreement pursuant to a bid accepted by the Lessee in accordance with Section 3.1, it shall give notice to the Bond Bank, the Trustee, the Bank and the Vendor or Vendors and, upon receiving notification from the Trustee that the Bond Bank

has funds available for the acquisition and leasing of such Equipment under the Lease Program, a closing date with respect to each Lease Supplement shall be agreed upon.

At the closing the following shall be delivered:

A. By the Lessee to the Bond Bank:

1. An assignment or assignments to the Bond Bank of all purchase orders or other evidence of a right or a commitment to purchase, in form acceptable to the Bond Bank, vesting in the Bond Bank the right to acquire the Equipment at the price and upon the terms agreed upon by the Lessee and the Vendor or Vendors;

2. A bill or bills of sale from the Vendor or Vendors to the Bond Bank listing and setting forth the cost of each item of the Equipment and conveying all Equipment free and clear of any liens, together with all warranties by the Vendor, invoices and other purchase documents;

3. One or more Lease Supplements with regard to such Equipment, in the form attached hereto, fully executed by the Lessee;

4. All such documentation and certifications as counsel for the Bond Bank and bond counsel to the Bond Bank with respect to the Bonds shall reasonably require to establish that the Lessee has fully complied with any and all applicable statutory notice and bidding requirements and that the Lessee has been duly authorized to enter into and perform under this Agreement and the Lease Supplements;

5. A UCC financing statement in accordance with the provisions of Section 3.6 of this Agreement.

6. An opinion of counsel for the Lessee (who may also be counsel, bond counsel or underwriters' counsel to the Bond Bank with respect to the Bonds) in accordance with Section 6.1(G) of the Indenture.

7. A certificate by the Lessee substantially in the form attached hereto as Exhibit D and to the effect that (i) the Equipment has been delivered in its entirety to the Lessee, and to the extent applicable, installed at the Equipment Location, and the Lessee has performed all tests, inspections and other procedures deemed necessary by the Lessee with respect to such Equipment, (ii) the Equipment is in good working order and is in all respects in accordance with the specifications of the Lessee and satisfactory to the Lessee, (iii) the Lessee has consequently accepted all of the Equipment and (iv) the Equipment is essential to the governmental or proprietary operations of the Lessee.

8. Evidence acceptable to the Bond Bank that the Lessee has in force all of the insurance required by Section 5.7 of this Agreement.

9. Evidence satisfactory to counsel for the Bond Bank and bond counsel to the Bond Bank with respect to the Bonds that, with respect to each of the Lease Payments and other amounts payable under each Lease Supplement to this Agreement for the first Fiscal Year of the Lessee in which such Lease Payments are due, such amounts have been duly appropriated and authorized for expenditure by or on behalf of the Lessee in accordance with the terms of this Agreement and the applicable Lease Supplement.

10. A certificate signed by an Authorized Official stating that each of the representations and warranties contained in Section 2.1 of this Agreement are true and correct as of the date of such certificate and that there has not occurred any Non-Appropriation, any Event of Default or any event which, with notice or lapse of time or both could become an Event of Default.

11. A certified transcript of proceedings of the Lessee authorizing the execution and delivery of this Agreement, which transcript shall contain all certifications required by the Act

and such other certifications, representations and warranties as the Bond Bank may deem to be necessary and appropriate.

12. An opinion of bond counsel to the Lessee, substantially in the form attached hereto as Exhibit E, and to the effect that this Agreement (including each Lease Supplement hereto) constitutes a valid and binding obligation of the Lessee, enforceable in accordance with its terms (subject to such enforcement limitations as may be contained herein or as customarily contained in such opinions), and that each Lease Supplement hereto requires the payment of Lease Payments which include amounts attributable to interest that is excludable from gross income for purposes of federal income taxation under Section 103 of the Code.

13. Such other certificates, assignments, guarantees, opinions or other documents and instruments as are required by the Act or as may be reasonably requested by the Bond Bank.

B. By the Bond Bank to the Lessee:

1. A certificate acknowledging receipt of a bill or bills of sale with regard to the Equipment from the Vendor and receipt of the Vendor's warranties.

2. This Agreement, including all Lease Supplements, as signed by the Lessee, fully executed by the Bond Bank.

C. By the Bond Bank to the Vendors:

1. Payment to the Vendor or Vendors of the purchase price of the Equipment agreed upon by the Lessee and the Vendor or Vendors.

D. By the Bond Bank to the Bank:

1. To the extent necessary to facilitate the timely acquisition of the Equipment and the issuance of the Bonds, the note or supplemental note to a master note of the Bond Bank for all or a portion of the purchase price of the Equipment, bearing interest at such rate or rates, which may be either variable or fixed, and subject to such other terms and conditions as may be agreed to by the Bond Bank and the Bank.

2. For so long as the note described in subparagraph (D)(1) above is held by the Bank, an assignment to the Bank of all of the right, title and interest of the Bond Bank in, to and under this Agreement, including all Lease Supplements hereto, and all Equipment subject hereto and thereto presently owned or hereinafter acquired and all attachments, accessories and additions thereto and all substitutions therefor and all proceeds thereof and therefrom.

Section 3.3. Responsibility for Condition and Operation of Equipment and No Lessor Warranties. In all cases of Equipment leased under this Agreement, the Lessee will have written or approved all plans and specifications relating to the acquisition and any installation of the Equipment leased and the Lessee alone will deal with the Vendors of such Equipment without any participation in such dealings by the Bond Bank or any advice or assistance from the Bond Bank. The Lessee acknowledges that the Bond Bank is not a manufacturer or seller of any of the Equipment and has no responsibility as seller, lessor or otherwise, whether or not any of the Equipment is of the size, design, quality or capacity selected by or required by the Lessee for the purposes intended by the Lessee.

The Lessee further acknowledges that so far as the Bond Bank is concerned, the Lessee is leasing the Equipment "as is," THAT THE LESSEE HAS SELECTED BOTH THE EQUIPMENT AND THE MANUFACTURERS, SELLERS, SUPPLIERS OR OTHER VENDORS FROM WHOM THE BOND BANK IS PURCHASING THE EQUIPMENT, AND FURTHER, THAT THE BOND BANK HAS NOT MADE, DOES NOT HEREBY MAKE AND WILL NOT HEREAFTER MAKE ANY REPRESENTATION, WARRANTY OR COVENANT, EXPRESS OR IMPLIED, WITH RESPECT TO THE VALUE, MERCHANTABILITY, OPERATING CONDITION, QUALITY, DURABILITY, DESIGN, OPERATION, FITNESS FOR A PARTICULAR PURPOSE OR SUITABILITY OF THE EQUIPMENT IN ANY RESPECT WHATSOEVER OR IN CONNECTION WITH OR FOR THE PURPOSES OR USES OF THE LESSEE

OR ANY OTHER REPRESENTATION, WARRANTY OR COVENANT OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT THERETO, AND THE BOND BANK IS NOT OBLIGATED OR LIABLE FOR ACTUAL, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES, LOSSES OR EXPENSES OF OR TO THE LESSEE OR ANY OTHER PERSON OR ENTITY ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE EQUIPMENT AND THE MAINTENANCE THEREOF.

With respect to each Lease Supplement, the Bond Bank hereby assigns to and vests in the Lessee during the Lease Term any and all of the Bond Bank's rights as the buyer of the Equipment against the Vendors of the Equipment under express or implied warranties or guaranties or otherwise, and to the extent, if any, that any such rights cannot be assigned to the Lessee, the Bond Bank will take or cause to be taken such action as the Lessee shall request against any Vendor for the benefit of the Lessee; provided, that the Lessee shall pay all of the Bond Bank's expenses in connection with any such action. The breach of any warranty by or the existence of any right or dispute against any Vendor shall not constitute a breach of this Agreement by the Bond Bank or relieve the Lessee from any of its obligations under this Agreement, including its obligation to make full and timely Lease Payments hereunder. The allocation of responsibilities and rights to the Bond Bank under this Section 3.3, including without limitation the right of exculpation, shall be included in any rights assigned or transferred by the Bond Bank to the Bank or the Trustee pursuant to Section 3.4.

Section 3.4. Rights and Security Interest of the Bank and the Trustee. In order to secure its obligations hereunder, the Lessee acknowledges, agrees and consents to any grant by the Bond Bank to the Bank or the Trustee of a first and prior security interest in all right, title and interest of the Bond Bank into and under this Agreement and each Lease Supplement hereto and in and to all Equipment subject hereto, and in any and all attachments, accessories and additions thereto and substitutions therefor and any proceeds thereof and therefrom and further acknowledges, agrees and consents that the rights of the Lessee under this Agreement or under any Lease Supplement hereto and to the Equipment are subject to such first and prior security interest. In the event that the security interest described in this Section 3.4 has been initially granted, assigned and transferred to the Bank, the Lessee further acknowledges, agrees and consents to the grant, assignment and transfer by or on behalf of the Bond Bank of such security interest to the Trustee, in accordance with the provisions of the Indenture, at any time that the security interest of the Bank described herein is terminated pursuant to Section 3.5 hereof. Further, to the extent, if any, that this Agreement or any Lease Supplement may be deemed to constitute "chattel paper" or "collateral", as such terms are defined in the provisions of Indiana Code 26-1-9 (the "Commercial Code") or in the Uniform Commercial Code as in effect in any applicable jurisdiction, no security interest in this Agreement or in any Lease Supplement may be created through the transfer or possession of any counterpart other than the original counterpart, which shall be identified as "counterpart number one" by the receipt therefor executed by the Bank or the Trustee on the Acceptance and Receipt endorsed thereon and, upon assignment and transfer to the Trustee of the Bond Bank's right, title and interest in and to the Equipment pursuant to this Section 3.4, shall be held by the Trustee as collateral under the Indenture.

Section 3.5. Subsequent Assignment to the Trustee. In the event that the Bond Bank has given its note or supplemental note to the Bank, as described in Section 3.2(D)(1) and has assigned its right, title and interest in, to and under this Agreement and the Equipment to the Bank in accordance with Section 3.2(D)(2) and Section 3.4, the security interest described in Section 3.4 with respect to this Agreement and all Equipment leased hereby will be granted, assigned and transferred to the Trustee pursuant to the Indenture at such time as the Bond Bank delivers to the Trustee all of the following:

- (i) The Lessee's certificate or certificates of Equipment acceptance and essentiality required pursuant to Section 3.2(A)(7), substantially in the form attached hereto as Exhibit D; and

- (ii) Evidence of the cancellation by the Bank of the Bond Bank's note or supplemental note with respect to the purchase of the Equipment leased hereunder and the release and termination of the Bank's security interest described in Section 3.4.

Upon such assignment and transfer to the Trustee, the Trustee will execute the "AGREEMENT AND ACKNOWLEDGEMENT OF TRUSTEE" attached hereto.

Section 3.6. Security Interest Under Commercial Code. To the extent that under the provisions of the Commercial Code, as defined in Section 3.4, this Agreement shall be considered as a conditional sale of the Equipment, it is agreed that a first and prior security interest in all right, title and interest of the Lessee in the Equipment and all additions, attachments, accessions and substitutions thereto leased under this Agreement is hereby granted by the Lessee to the Bond Bank. With respect to each Lease Supplement, a financing statement shall be filed covering the Equipment subject to such Lease Supplement and the Lessee agrees to execute any and all documents necessary to make such filing or any renewal or extension thereof effective under the Commercial Code.

ARTICLE IV

TERM AND RENTAL PAYMENTS

Section 4.1. Term of Agreement. This Agreement shall be effective upon the date of its execution and shall terminate on the earliest date as of which the Lease Terms under all Lease Supplements have terminated.

Section 4.2. Lease Term. The Lease Term with respect to the Equipment leased under each Lease Supplement shall begin on the Commencement Date specified in the Lease Supplement and shall terminate on the expiration date specified in such Lease Supplement unless it shall earlier terminate in accordance with the provisions of this Agreement upon the occurrence of (i) an Event of Default, (ii) the exercise of the Lessee's purchase option in the event of damage or destruction to the Equipment pursuant to Section 5.8 hereof or (iii) the occurrence of Non-Appropriation. With respect to each Lease Term, the expiration date shall not be more than fifty-nine (59) months subsequent to the applicable Commencement Date.

Section 4.3. Aggregate Rental Payments. For the Term of this Agreement, and to the extent that there is an appropriation of funds for such payment, the Lessee covenants and agrees to pay to Lessor in arrears on the fifteenth day of that first January, April, July or October immediately following the commencement date of the Fixed Period, and on the fifteenth day of every third month thereafter (each, a "Rental Payment Date"), without notice or demand, the Aggregate Rental Payment representing the aggregate of the Lease Payments then due under all Lease Supplements; provided, that during the Interim Period, if any, the Lessee shall not be required to make any such Aggregate Rental Payment or Lease Payment otherwise payable to the Bond Bank and the amount of any and all such Aggregate Rental Payments or Lease Payments shall continue to accrue during any such Interim Period and shall be payable, as a lump sum, upon the termination of the Interim Period and the commencement of the Fixed Period and the consequent amendments to the Lease Supplements to reflect the new or revised schedule of Lease Payments due during the Fixed Period. In the event that any Aggregate Rental Payment is payable on a Rental Payment Date which is not a Business Day, the Lessee shall make such payment on the next preceding day which is a Business Day. Any Aggregate Rental Payment, or portion thereof, received by the Lessor more than five (5) Business Days after the Rental Payment Date shall bear interest from the Rental Payment Date at the per annum rate of two percent (2%) above the rate of interest applicable to that portion of each Lease Payment during the Fixed Period attributable to interest. This Agreement shall be deemed to constitute a "net" lease, and subject to the terms and conditions hereof, the Lessee shall pay net during the Term of this Agreement all Aggregate Rental Payments and other payments required hereunder, including without limitation all payments and expenses required to be paid by the Lessee under Article V. In accordance with Section 3.3 and Section 5.2 of this Agreement, and notwithstanding any loss of use resulting from any

defect in the Equipment or dispute between the Lessee and any Vendor or any other person, the Lessee shall make all payments of Aggregate Rental Payments when due and shall not withhold any Aggregate Rental Payment or Lease Payment pending final resolution of any such dispute, and the Lessee shall not assert against the Bond Bank or its assigns any right of set-off or counterclaim against the Lessee's obligation to make such payments.

The Lessee represents and warrants that sufficient funds for all Lease Payments under each Lease Supplement have been appropriated by the Lessee for the first Fiscal Year in which such Lease Payments are due, and that funds are available for any and all such payments.

The Bond Bank and the Lessee agree that all Lease Payments and Aggregate Rental Payments payable in each Fiscal Year will constitute a current expense of the Lessee payable from funds annually budgeted and appropriated in accordance with law for such Fiscal Year for and in consideration of the right to the current and quiet use and enjoyment of the Equipment during such Fiscal Year and that the obligation of the Lessee to make such Lease Payments and Aggregate Rental Payments shall not be or be construed to be a debt of the Lessee in contravention of any constitutional or statutory limitations or requirements concerning indebtedness of the Lessee.

Section 4.4. Non-Appropriation. The parties acknowledge that the Appropriation for Lease Payments for the lease of Equipment for each Fiscal Year is a governmental function which the Lessee cannot contractually commit itself in advance to perform. Notwithstanding the foregoing, the Lessee acknowledges that the Bond Bank will have expended funds and incurred risk of loss in relying upon the expressed good faith present intention of the Lessee, which the Lessee hereby affirms, to continue to utilize the Equipment in the performance of its essential governmental functions throughout the applicable Lease Term. As of the date of this Agreement, the Lessee has no reason to believe that funds cannot be obtained in amounts sufficient to make each Lease Payment and all Aggregate Rental Payments during the term of this Agreement, and the Lessee hereby represents that it is the Lessee's present intention to undertake its *bona fide* best efforts to make provisions for any and all such amounts in each Budget, to have such provisions of each Budget approved and to exhaust all available administrative reviews and appeals in the event any of such provisions of the Budget are not approved.

Further, although the Lessee can make no covenant with regard to future Appropriations, the Lessee represents in good faith that, in the event that there is a failure to appropriate funds for any Lease Payments for any Fiscal Year for the term of this Agreement, it has no present intention of then subsequently appropriating funds for the purchase or lease of Equipment which is substantially the same as or serves the same purpose as the Equipment under this Agreement with respect to which there has been a Non-Appropriation.

The Lessee covenants and agrees that, on or before December 15 of each year in which this Agreement is in effect, the Lessee shall file with the Bond Bank (i) a copy of its final Budget and Appropriation with respect to each of the public funds of the Lessee from which Lease Payments will be made hereunder, certified by its Authorized Official (or an excerpt or extract from its Budget and Appropriation similarly certified) for the following Fiscal Year and (ii) a certificate of such Authorized Official stating whether or not actual and sufficient Appropriations for all Lease Payments under each Lease Supplement have been made by the governing body of the Lessee for the following Fiscal Year. The Lessee further covenants and agrees to file with the Bond Bank (A) evidence of the final actions of the Indiana State Board of Tax Commissioners with respect to the Budget and Appropriation for each of the public funds of the Lessee from which Lease Payments will be made hereunder and (B) a copy of any and all amendments subsequently adopted by the Lessee for such Budget and Appropriation, together with a statement as to the effect of such amendment upon any previous Appropriation for any Lease Payments hereunder, all certified by an Authorized Official of the Lessee. The Lessee further covenants and agrees that it shall file with the Bond Bank such other financial information relating to the ability of the Lessee to continue to meet its obligations to pay Aggregate Rental Payments during the then-current Term of this Agreement as reasonably may be requested by the Bond Bank.

Section 4.5. Purchase Option. Provided there is existing no Non-Appropriation, Event of Default under this Agreement or any other event which, with notice or lapse of time or both, could become an

Event of Default, the Lessee shall have the right to purchase all items of Equipment under a Lease Supplement (i) upon the occurrence of damage to or destruction or taking of such Equipment pursuant to Section 5.8, at the Optional Purchase Price established thereby or (ii) at the time of and in addition to the final Lease Payment for such Equipment established under the Lease Supplement, at the Optional Purchase Price of One Dollar (\$1.00). Upon the payment of such Optional Purchase Price, title to the Equipment shall be conveyed by the Bond Bank to the Lessee "as is" and without warranty, express or implied, other than the warranty of the Bond Bank that the item or items of Equipment so purchased are free and clear of any liens created by the Bond Bank.

In the event that, notwithstanding the Lessee's compliance with the foregoing covenants, representations and agreements, there occurs a Non-Appropriation with respect to any Lease Payments hereunder, the Lessee shall immediately notify the Bond Bank and the Trustee of such occurrence and this Agreement shall be governed by the provisions of Section 6.1(B).

ARTICLE V

CERTAIN COVENANTS OF THE LESSEE

Section 5.1. Use of Equipment. The Lessee has represented and hereby affirms that the Equipment is essential to the functioning of the Lessee, that the Lessee has an immediate need for and expects to make immediate use of the Equipment and that the Equipment will be used only in the performance of one or more of the governmental or proprietary functions of the Lessee as specified in the applicable Lease Supplement. The Lessee will install, use, operate and maintain the Equipment fully in accordance with prevailing industry standards and methods prescribed by the Vendor and only for the purpose intended by the Vendor. The Lessee will not install, use, operate or maintain the Equipment improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Agreement. The Lessee shall provide all permits and licenses, if any, necessary for the installation and operation of the Equipment. In addition, the Lessee agrees to comply in all respects with all laws, regulations, rules, orders and decrees of the State and any legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Lessee or the operation of the Equipment; provided, however, that the Lessee may contest in good faith the validity or application of any such law, regulation, rule, order or decree if the Lessee shall first give prior written notice of any such proposed contest to the Bond Bank and the Trustee and provide any assurances as may be reasonably requested by the Bond Bank and the Trustee that such contest will not adversely affect the interest of the Bond Bank or the Trustee in the Equipment or the rights of the Bond Bank under this Agreement or any Lease Supplement.

Section 5.2. Maintenance of Equipment by the Lessee. The Lessee agrees that at all times during the Lease Term, the Lessee will, at the Lessee's own cost and expense, maintain, preserve and keep the Equipment in good repair and working order, including without limitation any required replacement of major as well as minor components, in full and complete accordance with the Vendor's specifications and will, at the Lessee's own cost and expense, with respect to those items of Equipment so designated on any Lease Supplement, enter into and maintain in force a maintenance agreement in all respects acceptable to the Bond Bank with the Vendor of the Equipment or such other party as the Lessee designates subject to the approval of the Bond Bank. In the event that any parts or accessories forming part of any item or items of Equipment become worn out, lost, destroyed, damaged beyond repair or otherwise rendered unfit for use, the Lessee, at its own expense and expeditiously, will replace or cause the replacement of such parts or accessories by replacement parts or accessories free and clear of all liens and encumbrances and with a value and utility at least equal to that of the parts or accessories being replaced (assuming that such replaced parts and accessories were otherwise in good working order and repair). All such replacement parts and accessories shall be deemed to be incorporated immediately into and to constitute an integral portion of the Equipment and, as such, shall be subject to the terms of this Agreement and the applicable Lease Supplement, and title thereto shall vest in the Bond Bank in accordance with this Agreement. The Bond Bank shall have no responsibility to maintain, repair or make improvements or additions to the Equipment. The Bond Bank, the Bank, the

Trustee and their assigns, agents, employees, servants and representatives shall have the right at all reasonable times during business hours to enter into and upon the property of the Lessee for the purpose of inspecting the Equipment to insure compliance by the Lessee with the provisions of this Section 5.2. The Lessee further agrees that any failure, malfunctioning, breakdown, or other nonavailability of any Equipment resulting from a failure by or on behalf of the Lessee to maintain and repair such Equipment in accordance with this Agreement is not a valid basis for failing or refusing to make Lease Payments on such Equipment.

Section 5.3. Alterations of Equipment. The Lessee will not make any alterations, additions or improvements to the Equipment without the prior written consent of the Bond Bank unless such alterations, additions or improvements may be readily removed without damage to the Equipment. Title to any and all resulting additions, accessions, alterations or improvements to any item of Equipment shall, without further action, vest in the Bond Bank in accordance with this Agreement.

Section 5.4. Location and Inspection of Equipment. The Equipment will not be removed from, or if the Equipment consists of rolling stock, its permanent base will not be changed from, the Equipment Location without the Bond Bank's prior written consent, which will not be unreasonably withheld. The Bond Bank will be entitled to enter upon the Equipment Location or elsewhere during reasonable business hours to inspect the Equipment and observe its use and operation.

Section 5.5. Liens and Taxes. The Lessee shall keep all Equipment free and clear of all levies, liens and encumbrances except those created under this Agreement or pursuant to the Indenture. The Lessee shall pay, when due, all charges and taxes (local, state and federal), if any, which may now or hereafter be imposed upon the ownership, leasing, rental, sale, purchase, possession or use of the Equipment. If the Lessee fails to pay such charges and taxes when due, the Bond Bank shall have the right, but shall not be obligated to pay, such charges and taxes and to add such amounts, together with interest thereon at the rate of the then-current prime rate of interest as determined by the Trustee, to the following Aggregate Rental Payment of the Lessee hereunder. Upon the expiration or earlier termination of any Lease Supplement, and in the event that the Lessee has not exercised its purchase option pursuant to Section 4.5 of this Agreement with respect to the applicable Equipment, the Lessee shall pay to the Bond Bank any *ad valorem*, personal property or excise taxes which have been assessed upon the Equipment but are not then due and payable.

Section 5.6. Personal Property. The Equipment is and will remain personal property and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon. If requested by the Bond Bank, the Lessee will, at the Lessee's expense, furnish a landlord or mortgagee waiver with respect to the Equipment so affixed or attached.

Section 5.7. Insurance. At its own expense, the Lessee will maintain at all times during the term of this Agreement policies of fire and extended coverage insurance on the Equipment, including collision and comprehensive insurance on any vehicles or any other special insurance required for any particular type of Equipment, with an insurer or insurers of recognized responsibility, licensed or otherwise authorized to write such insurance under the laws of the State and approved by the Bond Bank and in an amount equal to the Full Insurable Value of the Equipment. The Lessee shall furnish to the Bond Bank, the Bank (for so long as the Bank is a secured party hereunder) and the Trustee certificates evidencing such coverage at least annually during the term of this Agreement. The Lessee may insure the Equipment under a blanket insurance policy or policies which cover not only the Equipment but other equipment and properties of the Lessee as well. Each insurance policy will name the Lessee, the Bond Bank, the Bank (for so long as the Bank is a secured party hereunder) and the Trustee as insured parties and will also name the Bank (for so long as the Bank is a secured party hereunder) and the Trustee as loss payee with respect to the Equipment. Each such policy shall contain a provision to the effect that the insurance company providing coverage shall not cancel the policy or modify it materially and adversely to the interests of the Bond Bank and its assigns without first giving written notice thereof

to the Bond Bank, the Bank (for so long as the Bank is a secured party hereunder) and the Trustee at least thirty (30) days in advance of such cancellation or modification.

At its own expense, the Lessee will also maintain at all times during the term of this Agreement policies of public liability and property damage insurance and workmen's compensation insurance covering such risks, with such limits and with such insurers as shall be acceptable to the Bond Bank and the Trustee. Each such policy shall name the Lessee as the insured and the Bond Bank, the Bank (for so long as the Bank is a secured party hereunder) and the Trustee as additional insured parties.

The Lessee may become self-insured in whole or in part for any or all of the public liability and property damage insurance coverages required above and may participate in a self-insurance program with other municipal corporations but only if such self insurance shall be under a plan or program which shall: (i) be approved by an insurance consultant who shall be acceptable to the Bond Bank and the Trustee and who shall have a favorable reputation for skill and experience in performing such function; (ii) provide for an actuarially sound claims reserve fund held as a separate trust fund, the adequacy of which shall be required to be evaluated at least on an annual basis by such insurance consultant; and (iii) require the initial funding of such reserve fund by the Lessee and the restoration by the Lessee of any deficiencies in such claims reserve fund in accordance with the recommendations of such insurance consultant and in amounts sufficient to provide at all times for the payment of the Full Insurable Value of all Equipment insured thereby.

At least annually during the term of this Agreement, the Lessee shall furnish to the Bond Bank, the Bank (for so long as the Bank is a secured party hereunder) and the Trustee certificates from the insurers evidencing that the policies of insurance required to be carried by this Section 5.7 are in full force and effect.

Section 5.8. Damage to or Destruction or Taking of Equipment. If, prior to the termination of this Agreement: (a) the Equipment is stolen, destroyed, in whole or in part, or is damaged by fire or other casualty, or (b) title to, or the temporary use of, the Equipment or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, the Proceeds will be paid to the Trustee and deposited in a special trust account to be held by the Trustee and applied toward the obligations of the Lessee as set forth in the next succeeding sentence. Upon the occurrence of an event described in the preceding sentence, the Lessee will, at its election, either (i) without delay fully restore, repair or replace the item of Equipment or (ii) subject to the conditions set forth in Section 4.5, exercise its option to purchase such item, in which case the Lessee shall pay to the Bond Bank the excess, if any, of the Optional Purchase Price established by the Bond Bank for such item of Equipment (computed as of the last Business Day of the month in which such purchase is made and fixed in an amount sufficient to permit the Bond Bank to provide for the payment of such debt service requirements on the Bonds as are allocable to the Lessee's applicable Lease Payment obligations with respect to the Equipment to be purchased) over the Proceeds and, upon such payment, title to the Equipment shall be conveyed to the Lessee in accordance with Section 4.5 of this Agreement. The Lessee may exercise the option to restore, repair or replace any item of Equipment in accordance with this Section 5.8 only if amounts available for such purpose, including insurance proceeds, are sufficient to render the Equipment in good condition and repair and fully operational following such restoration, repair or replacement. In the event and to the extent that a deficiency in any Proceeds paid hereunder arises from or is attributable to the Lessee's failure to perform any of its covenants regarding the maintenance of insurance under Section 5.7 hereof, the Lessee shall be liable to pay to the Bond Bank the amount of such insufficiency. If the Proceeds exceed the amount necessary for the Lessee to meet its obligations under this Section 5.8, and the Lessee is not in default of any of its obligations under this Agreement, such excess shall be paid by the Trustee to the Lessee.

Section 5.9. Annual Budget. The Lessee shall make all filings with the Bond Bank with regard to its annual Budget and Appropriations in accordance with Section 4.4 of this Agreement.

Section 5.10. Records. The Lessee will keep proper records with respect to the Equipment which shall at all reasonable times be subject to inspection by the Bond Bank, the Trustee and their respective agents, employees, servants and representatives.

Section 5.11. Purchase of Bonds. The Lessee, or any "related person" within the meaning of the Code, has not and will not, pursuant to any arrangement, formal or informal, purchase Bonds in an amount relating to the aggregate amount of the Aggregate Rental Payments due pursuant to this Agreement.

Section 5.12. Tax Covenants. In order to preserve the exclusion from gross income under Section 103 of the Code of that portion of the Lease Rentals which is attributable to interest, the Lessee represents, covenants and agrees as follows:

A. No person or entity or any combination thereof, other than the Lessee or any other governmental unit within the meaning of Section 141(b)(6) of the Code ("Governmental Unit"), will use any of the Equipment subject to this Agreement or any portions, proceeds, substitutes or replacements thereof other than as a member of the general public. No person or entity or any combination thereof other than a Governmental Unit will own or have actual or beneficial use of the Equipment or any portions, proceeds, substitutes or replacements thereof pursuant to a lease, a management or incentive payment contract or any other type of arrangement that differentiates that person's or entity's use of such Equipment from the use of such Equipment by the public at large.

B. The payment of Lease Payments shall not be, in whole or in part, directly or indirectly (i) secured by any interest in property used or to be used directly or indirectly in a trade or business carried on by any person other than a Governmental Unit or payments in respect of such property or (ii) derived from payments (whether or not to the Lessee) with respect to property or borrowed money used or to be used directly or indirectly in a trade or business.

C. The Lessee will not enter into any management contract with any other person or entity with respect to any of the Equipment subject to this Agreement unless there has first been delivered to the Bond Bank and the Trustee an Opinion of Bond Counsel to the effect that any such contract will not impair the exclusion from gross income for federal income tax purposes pursuant to Section 103 of the Code of the interest component of any Lease Payments hereunder.

D. The Lessee will not take, cause or permit to be taken any action the taking of which, or fail to take, cause or permit to take any action the failure to take which, with respect to this Agreement and the Equipment, would cause the interest component of the Lease Rentals to cease to be excludable from gross income for federal income tax purposes pursuant to Section 103 of the Code. The Lessee will not make any investment or do any other act or thing during the term of this Agreement that would cause this Agreement or any Lease Supplement hereto or obligation or payment hereunder to be deemed an "arbitrage bond" within the meaning of the Code and the regulations applicable thereto as in effect on the date of this Agreement. The Lessee shall comply with the arbitrage rebate requirements under Section 148 of the Code, to the extent applicable.

E. The Lessee shall authorize and direct its officers, employees and agents to make such filings with and payments to the United States of America and such other certifications, and to take such other actions, as may be necessary or appropriate to carry out and comply with this Section 5.12, including without limitation the filing of form 8038-G or 8038-GC, as applicable, with the Internal Revenue Service.

ARTICLE VI

TERMINATION OF LEASE, DEFAULT AND REMEDIES

Section 6.1. Termination of Lease. The lease of the Equipment under this Agreement and under the Lease Supplements shall terminate upon the occurrence of any of the following events:

A. As to Equipment under any Lease Supplement, upon the exercise by the Lessee of its purchase option under such Lease Supplement pursuant to Section 4.5.

B. In whole or in part, at the option of the Bond Bank, upon the occurrence of Non-Appropriation with respect to any part or all of the Lease Payments or other amounts payable by the Lessee under any Lease Supplement.

C. In whole or in part, at the option of the Bond Bank, if an Event of Default shall occur with respect to the lease of Equipment under Section 6.3.

Section 6.2. Surrender of Equipment on Termination. In the event that the lease of Equipment shall be terminated by the Bond Bank pursuant to paragraph (B) or paragraph (C) of Section 6.1, the Lessee, at the Lessee's expense, immediately shall return the Equipment to the Bond Bank at the location specified by the Bond Bank and in a state of good repair and working order to the satisfaction of the Bond Bank. The Lessee shall be liable for the payment of any damages to the Equipment not constituting normal wear and tear for equipment of such type and design for the use to which the Lessee has covenanted and agreed the Equipment will be put. If the Lessee has not delivered possession of the Equipment to the Bond Bank as required by this section, the termination of this Agreement shall nevertheless be effective, but the Lessee shall be responsible for the payment of damages in an amount equal to the amount of the Aggregate Rental Payments which, calculated on a daily basis, have accrued during the period in which the Lessee has failed to deliver possession of the Equipment to the Bond Bank in accordance with the terms hereof plus any actual damages resulting from any damages to the Equipment that may occur prior to the delivery of possession of the Equipment to the Bond Bank or resulting from the failure of the Lessee to deliver the Equipment to the Bond Bank in accordance with the terms hereof.

Section 6.3. Events of Default. The term "Event of Default," as used herein, means the occurrence of any one or more of the following events:

A. The Lessee fails to make in full any Aggregate Rental Payment as it becomes due in accordance with the terms of this Agreement (other than by reason of Non-Appropriation).

B. The Lessee fails to perform or observe any other covenant, condition or agreement relating to the lease of Equipment to be performed or observed by it hereunder and such failure is not cured within fifteen (15) days after written notice thereof by the Bond Bank or the Trustee unless the Bond Bank shall agree in writing to an extension of such time; provided, however, if the failure stated in such notice cannot be corrected within the applicable period, the Bond Bank will not unreasonably withhold its consent to an extension of such time for an additional reasonable period, if corrective action is instituted by the Lessee within the applicable period and diligently pursued until the failure is corrected.

C. The discovery by the Bond Bank that any material statement, representation or warranty made by the Lessee in this Agreement is false, misleading or erroneous in any material respect.

The foregoing provisions of subparagraph (B) above are subject to the proviso that if, by reason of Force Majeure, the Lessee is unable in whole or in part to carry out its covenants and agreements, the Lessee shall not be deemed in default during the continuance of such inability.

Section 6.4. Remedies. Upon the occurrence of Event of Default, and as long as such Event of Default is continuing, the Bond Bank may exercise any one or more of the following remedies:

A. By written notice to the Lessee, require the Lessee, at the Lessee's expense, immediately to return the Equipment in a good state of condition to the Bond Bank at the location specified by the Bond Bank. The Bond Bank, at its option, may enter the location in which the Equipment is then situated and take immediate possession of and remove the Equipment.

B. Sell or lease the Equipment or sublease the Equipment for the account of the Bond Bank, holding the Lessee liable for all appropriated Lease Payments, then due, to the effective date of such selling, leasing or subleasing and for the difference, if any, between the purchase price, rental and other

amounts paid by the purchaser, lessee or sublessee pursuant to such sale, lease or sublease and the amounts payable by the Lessee hereunder and under the applicable Lease Supplement.

C. Exercise any other right, remedy or privilege which may be available to the Bond Bank under and to the extent permitted by the applicable laws of the State, including, without limitation, the remedy set forth and described in Indiana Code 5-1.5-8-5 to the extent that such action would not adversely affect the validity of this Agreement or any Lease Supplement hereto or proceed by appropriate court action to enforce the terms of this Agreement or to recover damages for the breach of this Agreement.

In addition, the Lessee will remain liable for all covenants and obligations under this Agreement or any Lease Supplement hereto and for any and all legal fees and other costs and expenses, including court costs, incurred by the Bond Bank with respect to the enforcement of any of the remedies described herein or any other remedies available to the Bond Bank hereunder. The proceeds of the exercise of any or all rights and remedies hereunder shall be applied to the payment of the Aggregate Rental Payments and all other amounts then due including the payment of court costs and the reasonable expenses of retaking, holding, securing, transporting, preparing for sale or lease, selling, leasing and other expenses related to the recovery and disposition of the Equipment including the reasonable fees and expenses incurred by the Bond Bank and its assigns and their respective legal counsel, advisors and other agents, employees, servants and representatives and the payment of any damages to the Equipment not occurring in the ordinary course of business and not constituting normal wear and tear for equipment of such type and design for the use to which the Lessee has covenanted and agreed the Equipment will be put.

No remedy herein conferred upon or reserved to the Bond Bank is intended to be exclusive and every such remedy shall be cumulative and in addition to every other remedy under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right, power or remedy accruing upon an Event of Default hereunder shall impair any such right, power or remedy or be deemed to be a waiver thereof, but any such right, power or remedy may be exercised from time to time and as often as may be deemed expedient.

The obligations of the Lessee under this Section 6.4 are subject in all cases to funds being lawfully appropriated to meet such obligations.

ARTICLE VII MISCELLANEOUS

Section 7.1. Entire Agreement. This Agreement, together with any and all Exhibits, appendices and Lease Supplements hereto, constitutes the entire agreement among the parties hereto. No waiver, consent, modification or change of terms of this Agreement or course of dealing shall bind either party unless pursuant to an instrument in writing signed by the Bond Bank and the Lessee and consented to by the Trustee, and then shall be effective only in the specific instance and for the specified purpose given. There are no understandings, agreements, representations or warranties, express or implied, not specified herein.

Section 7.2. Amendments. The Lessee acknowledges that the Bond Bank has assigned and pledged to the Bank and/or the Trustee for the benefit and security of the owners of the Bonds all of its rights under the provisions of this Agreement, including the right to receive Aggregate Rental Payments from the Lessee and to receive or repossess Equipment on behalf of the Bond Bank, pursuant to Section 6.2, upon the termination of the lease of the Equipment. Accordingly, except as otherwise provided in Section 4.3, this Agreement shall not be amended, modified or changed except with the consent of the Trustee in the manner and subject to the conditions permitted by the terms and provisions of the Indenture; provided, that nothing in this Section 7.2 shall prevent the parties hereto from executing, acknowledging and delivering such amendments or supplements to this Agreement or

any Lease Supplement as may be necessary or appropriate to correct or clarify any inadequate, incomplete or incorrect description of Equipment subject to this Agreement.

Section 7.3. Assignment and Subleasing by the Lessee. This Agreement and each of the Lease Supplements may not be assigned by the Lessee. The Lessee may not sublease any item of Equipment without the prior written consent of the Bond Bank, the Bank (for so long as the Bank is a secured party hereunder) and the Trustee and without meeting each of the following conditions:

(i) No such sublease shall modify or limit any right or power of the Bond Bank, the Bank (for so long as the Bank is a secured party) or the Trustee hereunder or under the Indenture and, notwithstanding any such sublease, all of the obligations of the Lessee hereunder and under any and all Lease Supplements hereto, including the Lessee's obligations to make the Lease Payments and any other amounts due hereunder, shall continue in full force and effect;

(ii) The Lessee shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to the Bond Bank a true and complete copy of any such sublease;

(iii) No sublease by the Lessee shall cause or permit any of the Equipment subject thereto to be used for a purpose other than the governmental or proprietary purposes described in this Agreement and authorized under the provisions of the laws of the State; and

(iv) The Bond Bank shall have received an Opinion of Bond Counsel to the effect that such subleasing will not impair the exclusion from gross income for federal income tax purposes pursuant to Section 103 of the Code of the interest component of any Lease Payments hereunder.

Section 7.4. Execution of Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be executed by the parties hereto and all of which shall be regarded for all purposes, except for purposes of collateral as provided in Section 3.5 hereof, as one original and shall constitute and be but one and the same instrument.

Section 7.5. Severability of Invalid Provisions. If any one or more of the covenants or agreements provided in this Agreement should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements and shall in no way affect the validity of other provisions of this Agreement.

Section 7.6. Notices. All notices, filings and other communications shall be sent by first class mail, postage prepaid, addressed as follows:

If to the Bond Bank:

*Indiana Bond Bank
Capital Center
251 North Illinois, Suite 970
Indianapolis, Indiana 46204
Attention: Executive Director*

If to the Trustee:

*Merchants National Bank
& Trust Company of Indianapolis
1 Merchants Plaza, Suite 600E
Indianapolis IN 46255
Attention: Corporate Trust Dept*

If to the Bank:

*Merchants National Bank
& Trust Company of Indianapolis
1 Merchants Plaza Suite 200E
Indianapolis IN 46255
Attention: Public Finance Dept*

If to the Lessee:

Section 7.7. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.

Section 7.8. Section Headings Not Controlling. This headings of the several Articles and Sections of this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of, or be taken as an interpretation of any provisions of this Agreement.

IN WITNESS WHEREOF, the Bond Bank and the Lessee have caused their respective seals to be hereunto affixed and attested and these presents to be signed by their respective officers hereunto duly authorized, all as of the day and year first above written.

(LESSEE)

By: _____

(SEAL)

ATTEST:

THE INDIANA BOND BANK

By: _____

(SEAL)

ATTEST:

AGREEMENT AND ACKNOWLEDGMENT OF TRUSTEE

[To be executed by the Trustee in accordance with Section 3.5]

Merchants National Bank & Trust Company of Indianapolis, as Trustee, acting under and pursuant to the Indenture of Trust between the Indiana Bond Bank and the Trustee, hereby acknowledges the assignment and pledge to it, as Trustee, of this Agreement pursuant to the provisions of this Agreement and the Indenture.

Dated: _____, 1990

MERCHANTS NATIONAL BANK & TRUST
COMPANY OF INDIANAPOLIS
as Trustee

By: _____

Printed: _____

Title: _____

**EXHIBIT C TO THE
MASTER EQUIPMENT LEASE AGREEMENT**

Lease Supplement Number _____

This Lease Supplement Number _____ has been executed this ____ day of _____, 19____ by the Indiana Bond Bank, a public body corporate and politic of the State of Indiana (the "Bond Bank"), and _____, a duly existing municipal corporation of the State of Indiana, as lessee (the "the Lessee").

RECITALS

1. For definition of certain terms used in this Lease Supplement, reference is made to Article 1 of the Agreement.

2. As of _____, 19____, the Bond Bank and the Lessee entered into a Master Equipment Lease Agreement (the "Agreement") under which, subject to the terms and conditions in the Agreement and subject to compliance with the criteria and requirements established by the Bond Bank, the Bond Bank leases Equipment to the Lessee.

3. The Lessee desires to lease from the Bond Bank the Equipment listed in Appendix A to this Lease Supplement, and the Bond Bank is willing to acquire and lease to the Lessee such Equipment in accordance with the terms of the Agreement and this Lease Supplement.

4. The Lessee and the Bond Bank, respectively, have fully complied with the provisions of Section 3.1 and Section 3.2 of the Agreement relating to the Equipment described in Appendix A.

NOW, THEREFORE, in consideration of the premises, the Bond Bank leases the Equipment described in Appendix A to the Lessee, and the Lessee leases such Equipment from the Bond Bank, pursuant to the terms and conditions stated in the Agreement as supplemented by the following provisions:

Section 1. Equipment. The Equipment to which this Lease Supplement relates is described in Appendix A attached hereto and is designated herein as the "Equipment."

Section 2. Representations of the Lessee. The Lessee reaffirms each of the representations, warranties and covenants set out in Article II of the Agreement.

Section 3. Acquisition Cost of Equipment. The cost to the Bond Bank for the acquisition of the Equipment and each item thereof is set out in Appendix A.

Section 4. Rental Payments. The payment of the Lease Payments due hereunder shall be made in arrears on the fifteenth day of that first January, April, July or October immediately following the commencement date of the Fixed Period and on the fifteenth day of every third month thereafter during the Lease Term, in accordance with and subject to the provisions of Section 4.3 of the Agreement. The amount of each Lease Payment is set out in Appendix B attached hereto and consists of an amount attributable to principal and an amount attributable to interest, all as specified in Appendix B. Appendix B is subject to amendment by the Bond Bank upon commencement of the Fixed Period, all in accordance with Section 4.3 of the Agreement.

Section 5. Term. The Lease Term of this Lease Supplement shall be for the period beginning on the Commencement Date and ending upon the earlier of (i) _____, or (ii) the date upon which the Lessee has acquired title to all Equipment hereunder by payment of the Optional Purchase Price in accordance with Section 5.8 of the Agreement, or (iii) the termination of the Agreement under Section 6.1 of the Agreement.

Section 6. Maintenance Contract. The Lessee has entered into a maintenance contract or contracts complying with Section 5.2 of the Agreement and approved by the Bond Bank covering each

item of Equipment listed in Appendix C attached hereto. The Lessee agrees at its expense to keep each such maintenance contract in full force and effect during the Lease Term unless the Bond Bank and the Trustee shall consent in writing to the modification or termination of such contracts.

Section 7. Appropriation. The Lessee represents and warrants that funds for the payment of all Lease Rentals and other amounts payable hereunder during the current Fiscal Year have been duly appropriated and are available for expenditure for such purposes.

Section 8. Compliance with Agreement. The Lessee represents and warrants that it has fully complied with all of the provisions of the Agreement.

IN WITNESS WHEREOF, the Bond Bank and the Lessee have caused their respective seals to be hereunto affixed and attested and these presents to be signed by their respective officers hereunto duly authorized, all as of the day and year first above written.

INDIANA BOND BANK

By _____

ATTEST:

(the "Lessee")

By _____
(_____, Authorized Officer)

ATTEST:

**EXHIBIT D TO THE
MASTER EQUIPMENT LEASE AGREEMENT**

FORM OF CERTIFICATE OF EQUIPMENT ACCEPTANCE AND ESSENTIALITY

The undersigned, an officer of the Lessee duly authorized to make, execute and deliver the certifications set forth herein, hereby certifies with respect to the equipment (the "Equipment") described in Appendix A to Lease Supplement Number ____ (the "Lease Supplement") of the Master Lease Agreement between the Lessee and the Indiana Bond Bank, as follows:

- (1) The Equipment has been delivered in its entirety to the Lessee at the Equipment Location described in Appendix A to the Lease Supplement and, to the extent that the Equipment is required to be installed upon delivery, the Equipment has been fully installed at such Equipment Location.
- (2) The Lessee has duly performed all tests, inspections and other procedures required by the vendor of the Equipment or reasonably deemed to be necessary or appropriate by the Lessee in order to determine that the Equipment is acceptable and ready for use for its designated purposes by the Lessee.
- (3) As of the date of this Certificate, the Equipment is in good working order and is in all respects satisfactory and in accordance with the specifications of the Lessee.
- (4) The Lessee hereby certifies its acceptance of the Equipment for the Equipment's designated use by the Lessee.
- (5) The Equipment is essential to the duly authorized functions of the Lessee, and the Lessee has an immediate and continuing need for, and expects to make immediate and continuing use of, the Equipment for the governmental or proprietary operations of the Lessee as a political subdivision of the State of Indiana.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Equipment Acceptance and Essentiality as of this ____ day of _____, 1990.

(the "Lessee")

By: _____

Printed: _____

Title: _____

ATTEST:

By: _____

Printed: _____

Title: _____

LEASE SUPPLEMENT NUMBER _____

APPENDIX A

List of Equipment and Cost

ITEM	EQUIPMENT DESCRIPTION	QUANTITY	SERIAL NO./VIN (if any)	COLOR (if available)	EQUIPMENT LOCATION	EQUIPMENT VENDOR	UNIT COST OF EQUIPMENT	COST OF ALL UNITS	AMOUNT TO BE FINANCED
A									
B									
C									
D									
E									
F									
G									
H									
I									
J									
K									
L									
M									
N									
O									
P									
Q									
R									
S									
T									

Aggregate Cost of All Equipment Under Lease Supplement

\$ _____

LEASE SUPPLEMENT NUMBER _____

APPENDIX B

Lease Payments, Principal and Interest

[illegible]

Acknowledgement by Lessee of Lease Payment Obligations: _____

Date: _____

LEASE SUPPLEMENT NUMBER _____

APPENDIX C

Items of Equipment Under Maintenance Contracts

[illegible]

Adm. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE RESOLUTION

DEPARTMENT REQUESTING ORDINANCE CONTROLLER'S OFFICE

SYNOPSIS OF ORDINANCE AUTHORIZES EXECUTION OF A MASTER LEASE/

EQUIPMENT LEASE WITH THE INDIANA BOND BANK. 2-90-04-30

EFFECT OF PASSAGE EQUIPMENT CAN BE LEASED.

EFFECT OF NON-PASSAGE EQUIPMENT MUST BE DIRECTLY PAID FOR.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) _____

ASSIGNED TO COMMITTEE (PRESIDENT) _____

Hold - bill
5-22-90

BILL NO. R-90-04-30

REPORT OF THE COMMITTEE ON FINANCE

THOMAS C. HENRY, CHAIRMAN
DONALD J. SCHMIDT, VICE CHAIRMAN
BRADBURY, BURNS, GiaQUINTA

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS
REFERRED AN (~~ORDINANCE~~) (RESOLUTION) AUTHORIZING THE EXECUTION
OF A MASTER EQUIPMENT LEASE AGREEMENT WITH THE INDIANA BOND BANK

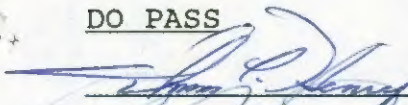
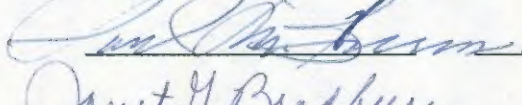
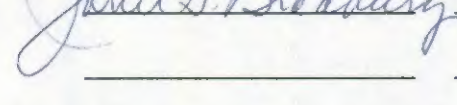
HAVE HAD SAID (~~ORDINANCE~~) (RESOLUTION) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(~~ORDINANCE~~) (RESOLUTION)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

DATED: *5-22-90.*

Sandra E. Kennedy
City Clerk